

AMENDED IN ASSEMBLY MAY 6, 2013

AMENDED IN ASSEMBLY APRIL 2, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 593

Introduced by Assembly Member Quirk

February 20, 2013

An act to amend Sections 23986, 24013, and 24014 of, and to add and repeal Section 23059 of, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 593, as amended, Quirk. Alcoholic beverages: Department of Alcoholic Beverage Control.

(1) The Alcoholic Beverage Control Act is administered by the Department of Alcoholic Beverage Control and requires the department to perform various duties relating to the issuance of alcoholic beverage licences.

This bill would require the department to evaluate its onsite license review process for restaurants in order to implement a more expedited licensing process. This bill would also require the department to prepare and submit a report to the Legislature, on or before December 31, 2015, relating to the review.

(2) The Alcoholic Beverage Control Act requires specified applicants for on-sale or off-sale licensees to have a notice of the application published, as provided.

This bill would exempt from that requirement applicants that are required to provide specified notices via mail of applications for licenses, including retail licenses, and transfer of licenses, as provided.

(3) Existing law provides that protests against the issuance of a liquor license may be filed with the department. Existing law permits the Department of Alcoholic Beverage Control to reject protests, except protests made by a public agency, public official, or governing body of a city or county, it determines to be false, vexatious, or without reasonable or probable cause.

This bill would permit the department to reject protests, except protests made by a public agency, public official, or governing body of a city or county, it determines are invalid or unreasonable, as described. The bill would also require a protest submitted by a person other than an employee of the department or a public officer to be submitted by an individual and limit the protest to one signatory.

(4) This bill would also make legislative findings related to legislation to provide guidance and direction to the Department of Alcoholic Beverage Control and the Alcoholic Beverage Control Appeals Board.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) That it is the intent of the Legislature to enact legislation
4 that would require the Alcoholic Beverage Control Appeals Board
5 to issue its decisions within 120 days of a hearing.

6 (b) That it is the intent of the Legislature to enact legislation
7 that would provide the Department of Alcoholic Beverage Control
8 with recruitment and retention incentives.

9 SEC. 2. Section 23059 is added to the Business and Professions
10 Code, to read:

11 23059. (a) The department shall evaluate its onsite license
12 review process for restaurants that are bona fide eating places in
13 order to implement a more expedited licensing process.

14 (b) (1) On or before December 31, 2015, the department shall
15 prepare and submit to the Legislature a report on the findings
16 regarding the onsite review process described in subdivision (a).

17 (c) The report required by subdivision (b) shall be submitted in
18 compliance with Section 9795 of the Government Code.

19 (d) This section shall remain in effect only until January 1, 2016,
20 and as of that date is repealed.

1 SEC. 3. Section 23986 of the Business and Professions Code
2 is amended to read:

3 23986. (a) Any applicant for an on-sale license shall cause a
4 notice of the application, giving the name or names of the applicant
5 and the premises where the business is to be conducted, to be
6 published pursuant to Section 6061 of the Government Code in a
7 newspaper of general circulation, other than a legal or professional
8 trade publication, in the city in which the premises are situated, or
9 if the premises are not in a city, the publication shall be made in
10 a newspaper of general circulation nearest the premises where the
11 business is to be conducted. The form of the notice shall be
12 prescribed by the department. Affidavit of publication shall be
13 filed with the department prior to the issuance of any license. The
14 department shall adopt rules and regulations to enforce the
15 provisions of this section.

16 (b) Any applicant for an on-sale or off-sale license at a premises
17 which is located in a census tract which has an undue concentration
18 of licenses, as defined in paragraph (2) or (3) of subdivision (a) of
19 Section 23958.4, shall cause a notice of the application to be
20 published pursuant to Section 6063 of the Government Code in a
21 newspaper of general circulation other than a legal or trade
22 publication. Publication shall be made in the city in which the
23 premises are situated, or if the premises are not in a city, the
24 publication shall be made in a newspaper of general circulation
25 nearest the premises where the business is to be conducted. The
26 form of the notice shall be prescribed by the department. Affidavit
27 of publication shall be filed with the department prior to the
28 issuance of any license. The department shall adopt rules and
29 regulations to enforce the provisions of this subdivision.

30 (c) This section shall not apply to any licensee subject to the
31 notification requirements of Section 23985.5 or Section 23987.

32 SEC. 4. Section 24013 of the Business and Professions Code
33 is amended to read:

34 24013. (a) Protests may be filed at any office of the department
35 within 30 days from the first date of posting the notice of intention
36 to engage in the sale of alcoholic beverages at the premises, within
37 30 days of the mailing of the notification pursuant to Section
38 23985.5, or within 30 days of the mailing of the notices of the
39 department to public officials as required by Section 23987,
40 whichever is later. The time within which a local law enforcement

1 agency may file a protest shall be extended by the period prescribed
2 in Section 23987, pursuant to a request made under that section.

3 (b) (1) The department may reject protests, except protests
4 made by a public agency or public official or protests made by the
5 governing body of a city or county, if it determines the protests
6 are false, vexatious, frivolous, invalid or unreasonable, or without
7 reasonable or probable cause at any time before hearing thereon,
8 notwithstanding Section 24016 or 24300. If, after investigation,
9 the department recommends that a license be issued
10 notwithstanding a protest by a public agency, a public official, or
11 the governing body of a city or county, the department shall notify
12 the agency, official, or governing body in writing of its
13 determination and the reasons therefor, in conjunction with the
14 notice of hearing provided to the protestant pursuant to Section
15 11509 of the Government Code. If the department rejects a protest
16 as provided in this section and issues a license, a protestant whose
17 protest has been rejected may, within 10 days after the issuance
18 of the license, file an accusation with the department alleging the
19 grounds of protest as a cause for revocation of the license and the
20 department shall hold a hearing as provided in Chapter 5
21 (commencing with Section 11500) of Part 1 of Division 3 of Title
22 2 of the Government Code.

23 (2) For purposes of this subdivision, ~~an invalid or unreasonable~~
24 ~~protest includes~~ *protests include*, but ~~is~~ *are* not limited to, ~~a protest~~
25 ~~that the department determines is _____.~~ *examples determined, and*
26 *made available to the public, by the department in a manner the*
27 *department deems appropriate for the protest process.*

28 (c) Nothing in this section shall be construed as prohibiting or
29 restricting any right that the individual making the protest might
30 have to a judicial proceeding.

31 SEC. 5. Section 24014 of the Business and Professions Code
32 is amended to read:

33 24014. (a) A protest made by any person other than an
34 employee of the department or a public officer shall be verified.
35 Verification may be on information and belief.

36 (b) A protest made pursuant to this section shall be submitted
37 by an individual and shall be limited to one signatory.